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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,638	08/20/2001	Aleksey G. Kazantsev	01997-289001	6696
26161	7590	01/28/2004	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			DESAI, ANAND U	
			ART UNIT	PAPER NUMBER

1653

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/933,638		KAZANTSEV ET AL.	
	Examiner		Art Unit	
	Anand U Desai, Ph.D.		1653	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1,2</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-11 filed on December 29, 2003, is acknowledged.

Priority

2. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is a prior application of a CPA assigned the same application number.

Specification

3. The disclosure is objected to because of the following informalities:

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The specification contains underlined text, such as the issue number for various citations, 22 for example on page 1, which is normally intended to indicated added matter. See 37 CFR 1.121(b). Suggest removing underline.

(b) *Specification other than the claims and listings provided for elsewhere (§ 1.96 and 1.825). —*

(1) *Amendment by instruction to delete, replace, or add a paragraph.*

Amendments to the specification, other than the claims and listings provided for elsewhere (§§ 1.96 and 1.825), may be made by submitting:

- (i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a deleted paragraph with one or more replacement paragraphs, or add one or more paragraphs;
- (ii) Any replacement or added paragraph(s) in clean form, that is, without markings to indicate the changes that have been made; and
- (iii) Another version of any replacement paragraph(s), on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of the paragraph(s). The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added paragraph or a deleted paragraph as it is sufficient to state that a particular paragraph has been added, or deleted.

The abbreviation “HEAT” is not defined on page 7.

The use of the trademark “TRANSFECTAM” has been noted in this application, for instance on page 23. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. There is a hyperlink on page 14 of the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 6, 8, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson, et al. (Science 248:1625-1630 1990). Peterson et al. teach the cloning of human TATA binding factor comprising SEQ ID NO:11 (amino acid 270-337). TATA binding protein binds coactivator transcription factors that contain multiple consecutive glutamine residues. TATA binding protein comprises alpha-helical and beta-sheet structural motifs (current application claims 1, 5, 6, 8, 9, and 10).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housman et al. (U.S. Patent 6,420,122) in view of Preisinger et al. (Phil. Trans. R. Soc. Lond. B (1999) 354:1029-1034). Housman et al. teach a polypeptide with extended polyglutamine regions. The polypeptide contains the first 17 amino acid of the huntingtin protein fused to 25 glutamine

residues fused with either a 28 amino acid c-myc tag or with a 230 amino acid enhanced fluorescent protein tag (see U.S. Patent '122, column 12, line 64 through column 13, line 10). Preisinger et al. teach interaction of extended polyglutamine proteins with cellular non-extended polyglutamine containing proteins, as a mechanism for the pathogenesis in polyglutamine neurodegenerative disorders (see page 1033, 2nd and 3rd paragraphs of Discussion section). One would have been motivated to identify competitive peptides that interact with extended polyglutamine containing peptides, which could be of therapeutic benefit in polyglutamine neurodegenerative disorders. Therefore, it would have been obvious to the person having ordinary skill in the art to have a therapeutic peptide that binds polyglutamine proteins with a spacer to physically separate and suppress the aggregation of cellular polyglutamine containing proteins (current application, claims 1-11).

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand U Desai, Ph.D. whose telephone number is (571) 272-0947. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 4:30 p.m.

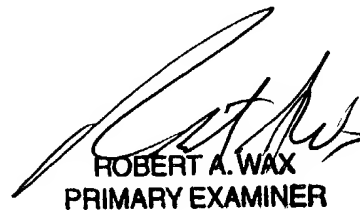
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (517) 272-0951. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0198.

January 21, 2004

A handwritten signature in black ink, appearing to be "A. Q.", written over the date.A handwritten signature in black ink, appearing to be "Robert A. Wax", written over the printed name and title.

ROBERT A. WAX
PRIMARY EXAMINER